



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov  
DW 05-01

Paper No. 3

FINNEGAN HENDERSON FARABOW  
GARRETT AND DUNNER LLP  
1300 I STREET N W  
WASHINGTON, DC 20005-3315

**COPY MAILED**

**MAY 29 2001**

**OFFICE OF PETITIONS  
A/C PATENTS**

In re Application of :  
Hall et al. :  
Application No. 09/819,063 : DECISION GRANTING PETITION  
Filed: 28 September, 2000 :  
Attorney Docket No. 7451.0007-02 :

This is a decision on the petition filed on 22 February, 2001, requesting that the Continued Prosecution Application (CPA) filed on 28 September, 2000, and based on prior application No. 09/300,778 (issued as U.S. Patent No. 6,138,119 on 24 October, 2000) be treated as a continuation application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of 28 September, 2000.

The petition **GRANTED**.

A review of the file of prior application No. 09/819,063 reveals that a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 09/300,778 was filed in the above-identified patent application on 28 September, 2000. The prior application, however, issued as U.S. Patent No. 6,138,119 on 24 October, 2000, as a result of applicant's payment of the issue fee on 4 August, 2000. Since the prior application has issued as a patent, the original application papers present in the file of Application No. 09/300,778 are no longer available for processing under 37 CFR 1.53(d).

In view of the decision and improper CPA request, the CPA request and other papers filed on 28 September, 2000, have been removed from the file of application No. 09/300,778 and have been assigned application No. 09/819,063 for identification purposes. The present petition has also been placed in the file of

Application No. 09/819,063. All further correspondence concerning the application deposited on 28 September, 2000, should be directed to Application No. 09/819,063, not Application No. 09/300,778.

The present petition requests that the CPA request be treated as an application under 37 CFR 1.53(b). A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the \$130.00 petition fee, and (2) a true copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d). The petition filed on 28 September, 2000, states that a true copy of the specification and drawings and executed declaration was enclosed therewith.

The application will be processed and examined using the papers filed on 28 September, 2000. The specification, claims, and drawings submitted with the present petition will not be used for processing, but will be retained in the application file.

The application file is being returned to Initial Patent Examination Division for processing with a filing date of 28 September, 2000, using the specification, claims, and drawings filed on 28 September, 2000.

~~Telephone inquiries concerning this matter may be directed to~~  
Petitions Attorney Douglas I. Wood at (703)308-6918.



Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy